

Disclosure statement

The *Retirement Villages Act 2016 (SA)* (the Act) and the *Retirement Villages Regulations 2017 (SA)* (the Regulations) require an operator to provide a prospective resident with a disclosure statement before they enter into a residence contract and prescribe the form of the disclosure statement.

The disclosure statement is intended to allow a prospective resident to understand the financial arrangements relating to residents of the retirement village. Under section 22 of the Act you must provide a prospective resident with the disclosure statement and the residence contract, along with other required documents, at least 10 business days before the person signs the residence contract.

The resident must have the residence contract for 10 business days before they are able to enter into the contract. This period allows the prospective resident time to consider all the information and seek legal and financial advice.

Section 21 of the Act refers to what must be included in a disclosure statement. Regulation 6 provides that the disclosure statement must be in a set form which is provided in Schedule 2 of the Regulations. Section 21 of the Act states that the disclosure statement must provide information including:

- > all fees and charges that the person would be responsible for under the residence contract, prior to entry, during occupation and on leaving the village
- > what the operator does with the fees and charges
- > any utilities, services or facilities provided or available to residents (such as telephone or electricity provided by a third party) that the operator has an interest in or would obtain any fee or reward in relation to
- > information about the insurance arrangements in place for the village
- > the manner in which an exit entitlement will be calculated and the effect of Section 30 – arrangements if resident leaves to enter residential aged care
- > a statement advising that a resident may be required to pay a special levy to the operator to recover an unforeseen expense of the retirement village
- > a statement that the disclosure statement is not a replacement for the residence contract, the prospective resident must ensure they understand the terms of the contract and it is recommended that the prospective resident seek legal and financial advice about the residence contract;
- > any other information or statement prescribed by the regulations

It is important that you understand your obligations in preparing and providing residence contracts and associated documents. Failure to comply with legislative requirements can incur a penalty of up to \$35,000. The following pages contain an EXAMPLE DISCLOSURE STATEMENT for reference purposes only.

Disclaimer: In developing this information sheet, every effort has been made to ensure that the information reflects the intent of the legislation and/or represents examples of best known practice. The information contained in these resources does not constitute legal advice. Office for Ageing Well recommends that you seek your own legal advice should you require interpretation of the legislation.

Retirement Villages Act 2016 (SA) – Section 21

Disclosure statement

- i. the disclosure statement is not a replacement for the residence contract but is intended only as a summary of certain information contained in the contract; and
- ii. prospective residents must ensure that they understand the terms of the residence contract; and
- iii. it is recommended that prospective residents seek legal and financial advice in relation to the residence contract.

Name of operator:	<i>[insert name]</i>
Name and address of retirement village:	<i>[insert name and location of the retirement village]</i>
Name of prospective resident:	<i>[insert name of prospective resident or residents]</i>
Description of residence:	<i>[insert description of the particular residence to be occupied by the resident including unit number. A copy of a unit layout may be included.]</i>
Residence completion date:	<i>[if residence is to be constructed or is under construction, insert anticipated completion date of the construction]</i>
Insurance arrangements in place for the retirement village:	<i>[insert name of insurer and type of insurance]</i> <i>For example:</i> <ul style="list-style-type: none">• Name of insurer:• Type of insurance: We have comprehensive insurance on the village which includes: public liability, building insurance etc.• You are required to organise your own contents insurance for your residence.
FEES AND CHARGES PRIOR TO OCCUPATION	
Ingoing contribution: Due on	<i>[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]</i> <i>[insert date or dates on which fees and charges are due]</i> <i>For example:</i> <ul style="list-style-type: none">• The ingoing contribution is \$.....• Deposit of \$..... to be paid on• Remainder of \$..... to be paid on The ingoing contribution will be held in trust until you enter into occupation of your residence. Following occupation, the ingoing contribution is paid to the operator.

Other fees and charges: Due on	<p><i>[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]</i></p> <p><i>[insert date or dates on which fees and charges are due]</i></p> <p>For example: Fee of \$.... To be paid by This fee will be used for</p>
FEES AND CHARGES DURING OCCUPATION	
Recurrent charges:	<p><i>[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]</i></p> <p>For example: Maintenance fee of \$.... per fortnight. This will be paid into the Maintenance Fund. See clause ... of the residence contract for details of the maintenance fee.</p>
Fees and charges for additional or personal services and facilities:	<p><i>[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]</i></p> <p>For example: Personal service fee of \$... per fortnight. This will be paid into the Maintenance Fund. See clause ... of the residence contract for details of the personal services you will receive.</p>
Other fees and charges under the contract:	<p><i>[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]</i></p>
Utilities, services or facilities provided or available to residents in which the operator has an interest or in relation to which the operator would obtain a fee or reward:	<p>[eg. electricity, Internet or telephone]</p> <p>For example: We have an interest in the following utilities, services or facilities which are available or provided to residents of the village:</p> <ul style="list-style-type: none"> • XYZ Internet services • XYZ Building services
Other fees and charges relating to occupation of the residence for which the resident is responsible:	<p><i>[eg. electricity, council rates, water or gas for which the resident is responsible, in addition to recurrent charges]</i></p> <p>For example: You will also be responsible for the following costs which are arranged by and billed to you directly.</p> <ul style="list-style-type: none"> • Telephone connection, calls, maintenance • Electricity & Gas consumption • Council rates • Contents insurance
Note— A resident may be required to pay a fee, charge or other amount to the operator to enable the operator to recover an unforeseen expense of the retirement village (a special levy).	

FEES AND CHARGES ON VACATING THE RETIREMENT VILLAGE	
Manner of calculation of exit entitlement	
Manner of calculation of amount from which exit fees will be deducted:	<p><i>[eg. whether the repayment is based on the ingoing contribution, the ingoing contribution of the next resident or on some other basis, and whether the resident will share in any capital gain or loss]</i></p> <p><i>For example:</i></p> <p>The exit entitlement is calculated by:</p> <p>Your ingoing contribution plus ...% of any capital gain or minus ...% of any capital loss. The capital gain or loss will be calculated by subtracting the ingoing contribution from the current market value of the residence.</p>
FEES AND CHARGES (exit fees)	
Termination during settling-in period	
Amount of fair market rent determined under section 44(5)(a) of the Act:	<p><i>[insert amount]</i></p> <p><i>For example:</i></p> <p>Fair market rent for your residence is \$... per week.</p>
Any other fees or charges:	<p><i>[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]</i></p> <p><i>For example:</i></p> <p>Any outstanding fees for personal services.</p> <p>Repair and refurbishment costs if there is damage to the residence beyond fair wear and tear.</p>
Termination after settling-in period	
Exit fees:	<p><i>[including, for example, any deferred management fees, refurbishment costs and remarketing costs. Include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]</i></p> <p><i>For example:</i></p> <p>Deferred management fee: You will be charged a deferred management fee which is retained by us. The fee will be a percentage of the current market value of your residence based on your length of occupation:</p> <ul style="list-style-type: none"> • Six months to one year: ..% of the current market value. • More than one year to two years: ...% of the current market value. • More than two years and less than three years: ...% of the current market value. • More than three years and less than five years: ...% • More than five years: ...% of current market value. <p>See clause ... of the residence contract.</p>

Exit fees:	<p>This will be paid to the operator.</p> <p>Refurbishment costs: You will be responsible for the costs of refurbishing your residence to as new condition, fair wear and tear excepted. See clause of residence contract.</p> <p>This will be paid into the Capital Fund.</p> <p>Remarketing fee: \$.... See clause ... of residence contract.</p> <p>This will be paid to the operator.</p> <p>Capital Replacement Fund Contribution: Calculated at ...% of your ingoing contribution for each year you reside in the residence to a maximum of X years.</p> <p>This will be paid into the Capital Replacement Fund.</p> <p>Recurrent charges: For up to 6 months after ceasing to reside in the residence. See clause of residence contract.</p> <p>These will be paid into the Maintenance Fund.</p>
Any other fees or charges:	<p><i>[including, for example, fees which a resident remains responsible for after the resident ceases to reside in the retirement village. Include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]</i></p> <p>For example:</p> <p>After you leave the retirement village you will be responsible for the following fees and charges:</p> <ul style="list-style-type: none"> • Any outstanding charges for personal services • You will be responsible for payment of electricity costs until the residence is relicensed or your exit entitlement has been repaid to you to enable us to undertake refurbishment work to the residence and show the residence to prospective purchasers.
<p>Note—</p> <p>Exit fee means the amount of money that is, under a residence contract, payable by a resident of a retirement village on the resident ceasing to reside in the retirement village or on the sale of the resident's right to reside in the retirement village.</p>	

TIMING OF PAYMENT OF EXIT ENTITLEMENT	
Timing of payment under residence contract:	<p><i>[when a resident will be entitled to payment of an exit entitlement, eg. on relicensing of the residence, sale of the resident's right to reside in a residence at the retirement village or some other event]</i></p> <p>For example:</p> <ul style="list-style-type: none"> We will pay you the exit entitlement within 10 business days of the next resident paying an ingoing contribution for the licence to occupy the residence, unless required earlier by legislation. (See Note below). OR – No exit entitlement is payable
<p>Note—</p> <p>Section 30 of the Act provides that if a resident leaves to enter residential aged care, the resident may apply to the operator for daily accommodation payments to be made to the relevant aged care facility (up to a limit determined under the section), if the resident meets the requirements set out in that section. If this occurs, the operator may recover the amounts paid by deducting them from the exit entitlement.</p> <p>Section 27 of the Act provides for the circumstances in which a resident may recover the amount of an exit entitlement as a debt from the operator, including if a period of 18 months has elapsed since the resident has ceased to reside in the retirement village.</p>	
Acknowledgement of receipt of disclosure statement	
Signature of operator	
Date	
Signature of resident	
Date	

For more information:

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www.sa.gov.au/seniors/retirementvillages

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